
SENATE BILL No. 446

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5.

Synopsis: Liens for storm water fees. Provides that storm water management district fees constitute liens. Sets forth the procedures by which: (1) a lien attaches and is enforced; and (2) payment of fees is enforced.

Effective: July 1, 2005.

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January 13, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 446

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1.5-5-29 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 29. (a) Fees assessed against real property under this**
4 **chapter constitute a lien against the property assessed. The lien is**
5 **superior to all other liens except tax liens. Except as provided in**
6 **subsections (b) and (c), the lien attaches when notice of the lien is**
7 **filed in the county recorder's office under section 30 of this**
8 **chapter.**

9 (b) A fee is not enforceable as a lien against a subsequent owner
10 of property unless the lien for the fee was recorded with the county
11 recorder before the conveyance to the subsequent owner. If
12 property is conveyed before a lien can be filed, the department
13 shall notify the person who owned the property at the time the fee
14 became payable. The notice must inform the person that payment,
15 including penalty fees for delinquencies, is due not less than fifteen
16 (15) days after the date of the notice. If payment is not received
17 within one hundred eighty (180) days after the date of the notice,



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the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the department notifies the owner within twenty (20) days after the time the user fees became sixty (60) days delinquent. However, the department must give notice to the owner only if the owner has given the department written notice of the address to which to send notice.

(d) The department shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

SECTION 2. IC 8-1.5-5-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. (a) The board may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (k), the board shall enforce payment of fees imposed under this chapter. As often as the board determines necessary in a calendar year, the board shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section. The list must include the following:

(A) The name of the owner of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) An officer of the board shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall mail to each property owner on the list or on an individual instrument a notice stating that a lien against the

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owner's property has been recorded. A service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (e), shall be added to each delinquent fee that is recorded.

(d) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the board shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(e) The board shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(f) Upon receipt of the list under subsection (c), the county auditor of each county shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent. The fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the district the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next May installment of property taxes. The county treasurer shall include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(g) After certification of liens under subsection (d), the board may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

(h) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(i) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the district. The county treasurer shall retain the service charges and certification fees that have been collected and

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1 shall deposit them in the county general fund.

2 (j) Fees, penalties, and service charges that were not recorded
3 before a recorded conveyance shall be removed from the tax roll
4 for a purchaser who, in the manner prescribed by section 29(d) of
5 this chapter, files a verified demand with the county auditor.

6 (k) A board may write off a fee or penalty under subsection (a)
7 that is less than forty dollars (\$40).

8 SECTION 3. IC 8-1.5-5-31 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2005]: Sec. 31. (a) A district may foreclose a lien established by
11 this chapter in order to collect fees and penalties. The district shall
12 recover the amount of the fees and penalties, and a reasonable
13 attorney's fee. The court shall order the sale to be made without
14 relief from valuation or appraisal laws.

15 (b) Except as otherwise provided by this chapter, actions under
16 this chapter are subject to the general statutes regarding municipal
17 public improvement assessments.

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